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Regional Technical Coordinator
Midwest Region

Assistant Chief Counsel (Income Tax & Accounting)

Technical Coordination Report 17,877, Submitted by Mr.
Thomas A. McMurray, Springfield District, PRO Division

Mr. McMurray in his report suggested that the current handling of moving expenses that are reimbursed by the employer produces an inequitable result for taxpayers who are unable to itemize deductions. Section 82 of the Internal Revenue Code provides that when an employer reimburses the moving expenses of an employee, the amount reimbursed must be included in the employee's gross income as compensation for services. Section 217 provides an itemized deduction for moving expenses. But Mr. McMurray correctly pointed out that many employees are unable to itemize deductions, and suggested that this would be more widely available if it were treated as an adjustment to income under section 62.

For taxable years beginning before January 1, 1987, former section 62(a)(8) of the Code provided the relief suggested by Mr. McMurray. It included moving expenses in computing adjusted gross income, and thus provided an above-the-line deduction for all taxpayers. This was changed by section 132(c) of the Tax Reform Act of 1986, 1986-3 (Vol. 1) C.B. 33, which stated: "Moving Expense Deduction Not Allowable in Computing Adjusted Gross Income.--Subsection (a) of section 62 ... is amended by striking out paragraph (8)."

The legislative history of this section of the Act gives no explanation why Congress decided to eliminate the above-the-line deduction for moving expenses. The only discussion of the provision is in Conf. Rep. No. 99-841, 99th Cong., 2d Sess. (1986), 1986-3 (Vol. 4) C.B. 34, which states: "Moving expenses of an employee or self-employed individual are to be allowed (subject to the present-law limitations in sec. 217) only as an itemized deduction; this deduction is not subject to the new floor."

This discussion is found in the general discussion of the handling of employee business expenses, investment expenses, and other miscellaneous itemized deductions. Under the House bill, these deductions were to be allowable only as itemized deductions, and subject to a floor calculated by adding all the tax-

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payer's miscellaneous deductions and allowing as a deduction only the amount exceeding one percent of the taxpayer's adjusted gross income. The Senate bill would have eliminated many of the miscellaneous deductions. The Conference bill specifically retained the moving expense deduction but only as an itemized deduction, and freed it from the new floor limit.

The House report's discussion of the general philosophy of the tax simplification process may be helpful in understanding the legislative history of this section. H.R. Rep. No. 99-426, 1986-3 (Vol. 2) C.B. 109-110 states as follows:

Reasons for Change

The committee believes that the present-law treatment of employee business expenses, investment expenses, and other miscellaneous itemized deductions fosters significant complexity. For taxpayers who anticipate claiming itemized deductions, present law effectively requires extensive recordkeeping with regard to what commonly are small expenditures. Moreover, the fact that small amounts typically are involved presents significant administrative and enforcement problems for the Internal Revenue Service. These problems are exacerbated by the fact that taxpayers may frequently make errors of law regarding what types of expenditures are properly allowable as miscellaneous itemized deductions. [Footnote omitted.]

Since many taxpayers incur some expenses that are allowable as miscellaneous itemized deductions, but these expenses commonly are small in amount, the committee believes that the complexity created by present law is undesirable. At the same time, the committee believes that taxpayers with unusually large employee business or investment expenses should be permitted an itemized deduction reflecting that fact. Similarly, in the case of medical expenses and casualty losses, a floor is provided under present law to limit those deductions to unusual expenditures that may significantly affect the individual's disposable income.

From this legislative history, we believe that Congress intended to deny taxpayers the above-the-line moving expense deduction as part of the overall simplification of the Code under the 1986 Act. A taxpayer whose moving expenses are sufficiently large to permit the individual to itemize may deduct them under section 217 of the Code. For a taxpayer whose moving expenses

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are smaller than that, relief is provided not as a deduction but as a overall reduction in the rate of tax imposed.

We appreciate Mr. McMurray's interest and initiative in submitting his report. Copies of this memorandum are attached for Mr. McMurray and other interested parties.

By (signed) Robert A. Berkovsky
Robert A. Berkovsky
Chief, Branch 2

Attachments:
Copies of memorandum